

DECLARATION OF KENNETH BAIN II

I, Kenneth Bain II, being duly sworn, do hereby depose and state as follows:

PURPOSE OF THIS DECLARATION

1. This declaration is submitted in support of a complaint for forfeiture. The information contained in this declaration is based on an investigation conducted by the Yamhill County Sheriff's Office, with the assistance of the Drug Enforcement Administration (DEA), which will show that \$6,800.00 in U.S. Currency (**Defendant Currency**) which was seized from the residence of Nian Hua Chen in Portland, Oregon is subject to forfeiture pursuant to 21 U.S.C § 881(a)(6), as moneys and assets furnished or intended to be furnished by a person in exchange for a controlled substance, proceeds traceable to such an exchange, or moneys used or intended to be used to facilitate violations of 21 U.S.C. § 841. Information contained in this declaration is based upon my personal observations, training, and experience, and that of other law enforcement officers. This declaration does not contain each and every fact that I know about this investigation, only those necessary to establish probable cause to believe the seized currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

DECLARANT'S BACKGROUND AND TRAINING

2. I am a Special Agent with the Drug Enforcement Administration (DEA) and have been since January 2022. I am currently assigned to the DEA Seattle Field Division (SFD) Portland District Office (PDO). As a Special Agent of the DEA, I have participated in numerous drug investigations as either the lead case agent or as a supporting investigative agent, including in Title III wiretap investigations of violations of the Controlled Substances Act and Title 21, United States Code, Section 801, *et seq.* I have received specialized training from the DEA, to include a

17-week Basic Agent Training course and other training courses. I have been involved in conducting long-term, international, and complex conspiracy investigations. Prior to my assignment to the PDO, I was a sworn law enforcement officer in the state of Florida with the University of Florida Police Department for six (6) years. During that timeframe, I was assigned to Patrol for the first four (4) years. For the last two (2) years, I was assigned to the Gainesville DEA office, under the Miami Field Division, as a deputized Task Force Officer. I am familiar with investigations of Transnational Criminal Organizations (hereinafter, “TCOs”) including identifying methods of importation and distribution of controlled substances, and how controlled substances are manufactured, consumed, packaged, marketed, smuggled, and distributed. I am also familiar with various tactics used by TCOs to import drugs into the United States, communicate with members of the TCOs, and arrange for transportation and distribution of drugs.

BACKGROUND OF THE INVESTIGATION

3. In December of 2021, the Yamhill County Sheriff’s Office (YCSO) began investigating an illegal marijuana grow located at NE Chehalem Dr Newberg, Yamhill County, Oregon (**Chehalem Property**). This issue was brought to YCSO’s attention by a Yamhill County Department of Planning and Development code enforcement (YCDPD) employee who will be referred to hereinafter as (MK). MK reported an 800-amp electrical panel blew up on the machine shop located on the property. This caused the risers on the power pole to melt from the extreme heat. Portland General Electric (PGE) had to respond to disconnect the power. This incident occurred in June 2021 and was not originally reported to the fire department or law enforcement.

4. MK began investigating county code violations for the electrical issues at the Chehalem Property. MK ultimately ended up posting “Stop Work” and “Do Not Enter Unsafe to Occupy” notices. MK attempted to contact an individual responsible for the property but the individuals on

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scene denied any authority over the property and denied knowledge of who was responsible. MK photographed several vehicles on the Chehalem Property including their license plates. MK forwarded those pictures to YCSO Detective (Det.) Skip Jones. Det. Jones found the following:

- Silver Nissan box van, license plate (OR 824MLY), registered to Chen, Nianhua
DOB: XX/XX/1970, ODL: XXXX657, address SE Bush St, Portland, Oregon, 97236.
- Light blue Toyota Prius, license plate (OR 9Y2576). Registered to Chen, Nianhua,
DOB: XX/XX/1970, ODL: XXXX657, address SE Bush St, Portland, Oregon 97236.
- White Toyota Tundra, license plate (OR TB28373). Registered to Tan, Chaoyang,
DOB: XX/XX/1987, ODL: XXXX215, address SE Denali Dr, Happy Valley, Oregon
97086.

5. Det. Jones then spoke to an electrician with Vanguard Electric who worked on the shop at the Chehalem Property, who will be referred to hereinafter as “CS”. CS advised they were contacted in June of 2021 by an individual named “Chao” who ultimately directed them to another individual who went by “Ocean” (NOTE: Investigators would later learn that Ocean is Chaoyang Tan).

6. CS advised that Ocean wanted electrical work done at the Chehalem Property shop for the damaged 800-amp panel. CS looked at the shop to see what needed to be done. CS advised they saw walls constructed in the shop which created individual rooms. CS could smell the odor of marijuana, but they did not see any marijuana plants. CS also advised, they had previously worked for Ocean on another large building located at Silver Falls Dr NE, Silverton, Marion County, Oregon (**Grow Location 1**).

Grow Location 1-Silver Falls Dr:

7. Part of CS’s procedure for installing electrical work is needing to know the type of equipment that would be used at a location in order to determine the facilities power needs. CS asked Ocean what would be used at the Silverton location and Ocean said he needed grow lights,

humidifiers and A/C units.

8. After receiving information from the electrician about **Grow Location 1**, Polk County Det. Lorence and Det. Jones drove to the area to view the property on 12/16/2021. This property is approximately a 9.9-acre piece of farmland located on the north side of Silver Falls Dr NE.

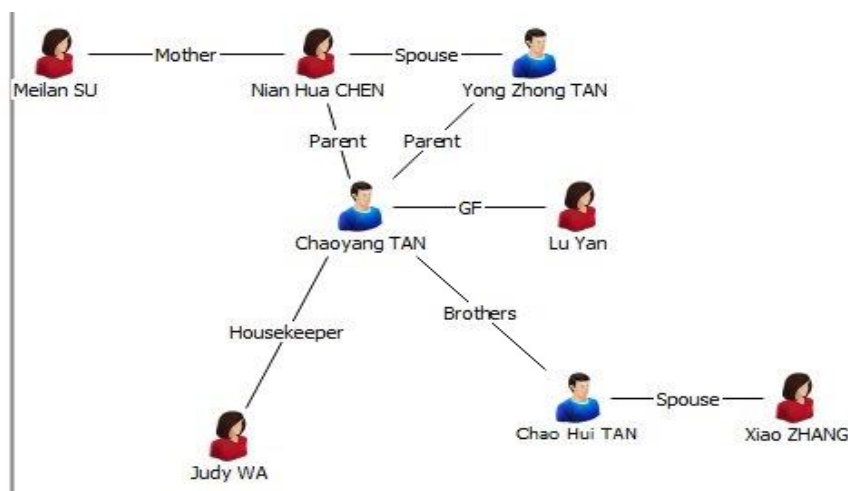
9. On 3/16/2022, Detective Lorence and Det. Jones again drove to the area of **Grow Location 1** and observed several vehicles parked in front of the large gray metal building. They also observed a female and male walk in and out of the door located on the north side of the building. Det. Lorence took pictures of the vehicles and the individuals.

- A white Subaru Forester with the license plate (OR 358MUF). This plate is registered to Chen, Haiying DOB:XX/XX/1984, ODL: XXXX986, address SE 82nd Ave Portland, Oregon 97266.
- A white Toyota Tundra, license plate (OR TB28373) parked in the driveway in front of the residence. It was registered to Chaoyang Tan DOB: XX/XX/1987, ODL: XXXX215, address SE Denali Dr, Happy Valley, Oregon 97086.
- A silver Nissan box van with the license plate (OR 824MLY). Registered to Nianhua Chen DOB: XX/XX/1970, ODL: XXXX657, address SE Bush St, Portland, Oregon 97236.

10. Det. Jones reviewed the power records he previously requested and found the power consumption for the residence in June of 2021 was 11,686 KWH. This power consumption was consistent with an indoor marijuana grow.

11. Det. Jones then contacted the Multnomah County Assessor's Office regarding the registered owners of several properties associated with the case. Det. Jones was told that SE Bush St. was listed as owned by, "CHEN, NIAN HUA & TAN, YONG ZHONG & TAN, CHAO YANG". Det. Jones also contacted the Clackamas County Assessor's Office regarding the registered owners of SE Denali Dr and was told the registered owner of Denali Dr was Chaoyang Tan. In addition, Nian Hua Chen, along with Chaoyang and Chao Hui were found to also be the registered owners of S Mattoon Rd in Estacada, Oregon (**Grow Location 2**).

12. The following graph was created to better understand how the various parties were connected to Nian Hua Chen and Chaoyang Tan, the two individuals who are connected to the Chehalem Property, **Grow Location 1** on Silver Falls Drive, and now **Grow Location 2** on S Mattoon Rd:



13. On 4/04/2022, Det. Jones then drove to multiple properties associated with Nian Hua Chen and Chaoyang Tan, including S. Mattoon Rd., Estacada, Clackamas County, Oregon. When Det. Jones drove by the property, he could see the residence sat off the road. He noted that the driveway was gated from Mattoon Rd. Det. Jones had his window down as he went by, and he began to smell an odor of marijuana as he passed the shop situated behind the residence.

14. Det. Jones then drove the area and contacted neighbors regarding their observations of S Mattoon Rd. Det. Jones spoke to one neighbor who stated they often smell marijuana coming from the shop located behind the residence. The neighbor said that when they walk their dog on S. Stormer Rd., they smell marijuana. They also reported seeing small white sprinter style vans coming and going from the property.

Oregon Cannabis Licenses:

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15. Det. Jones has checked with the Oregon Department of Agriculture-Hemp Program (ODA), Oregon Health Authority-Oregon Medical Marijuana Program (OMMP) and Oregon Liquor & Cannabis Commission (OLCC). After checking all three regulating authorities, Det. Jones found there were no licenses to grow more than the legal limit of marijuana or hemp at Silver Falls Dr NE Silverton, Marion County (**Grow Location 1**), SE Denali Dr Happy Valley, Clackamas County (**Happy Valley Residence**), SE Bush St Portland, Multnomah County (**Portland Residence**) and S Mattoon Rd Estacada, Clackamas County (**Grow Location 2**).

SEARCH WARRANT AT PORTLAND RESIDENCE

16. On 05/16/2022, Circuit Court Judge Jennifer K. Gardiner authorized several Oregon State search warrants associated with this case, including warrants executed at **Grow Location 1**, **Grow Location 2**, **Happy Valley Residence**, and the residence owned by Chaoyang Tan and his parents Nian Hua Chen and Yong Zhong Tan located at SE Bush Street, Portland, OR (**Portland Residence**).

17. On 05/19/2022, DEA Portland Group D-50, YCSO, and Portland Police Bureau (PPB) executed the state of Oregon search warrant at the Portland Residence. Yong Zhong Tan (Chaoyang's father), Chaohui Tan (Chaoyang's brother), Xiaohui Zhang (Chaoyang's sister-in-law), Meilan Su (Chaoyang's grandmother), and one juvenile were present at the time of the execution of the search warrant. (NOTE: Nian Hua Chen, a resident of the residence, was located at the Denali Drive residence at this time).

18. During the search of the Portland residence, Special Agent Kocher located and seized \$6,800.00 U.S. Currency (**Defendant Currency**). **Defendant Currency** was found in a wall safe located in the bedroom belonging to Chaohui Tan, the son of Nian Hua Chen. **Defendant**

Currency was unmarked, banded U.S. Currency wrapped in aluminum foil inside of an unmarked black plastic bag. Occupants on-site declined the opportunity to speak with Investigators regarding the seized currency. A translator was available on-scene at the time of the seizure.

19. During the course of the search and seizure at the **Portland Residence**, Investigators located lights typically used in the indoor cultivation of marijuana located in the garage of the residence. Investigators also located, but did not seize, additional equipment with marijuana residue in the garage.

20. While Investigators were on scene searching the **Portland Residence**, a white Ford Transit Connect with Oregon plate 364 MTD pulled up to the residence. The driver of the van was identified as Yong Zhong Tan (“**YONG ZHONG**”), Nian Hua Chen’s husband. **YONG ZHONG** gave Investigators verbal consent to search the vehicle and two 30-gallon garbage bags of freshly cut marijuana trim was located in the back of the van.

21. The Allstate auto insurance card located inside the **Portland Residence** listed the white 2020 Ford Transit van as belonging to Yong Zhong and Nianhua Chen, at SW Winnie Way (**Grow Location 3**). Two other vehicles were listed on the insurance card.

22. During the search, Det. Jones was informed numerous mortgage documents were located. These mortgage documents were for the following properties with listed owners:

- SE Bush St (**Portland Residence**) with Yong Zhong, Chaoyang, and Nianhua as the owners.
- S Mattoon Rd (**Grow Location 2**) with Nianhua, Chaohui, and Lu Yan Wu as the listed owners.
- Winnie Way (**Grow Location 3**), registered to Yong Zhong, Nianhua’s spouse.

23. Occupants on-site declined the opportunity to speak with Investigators regarding the seized

currency. A translator was available on-scene at the time of the seizure.

SEARCH WARRANTS AT GROW LOCATIONS 1-3

24. During the execution of the search warrant on 05/16/2022 at **Grow Location 1**-Silver Falls Dr., the following was seized:

- Live Plants: 6,275
- Clones: 3,588

25. During the execution of the search warrant on 05/17/2022 at **Grow Location 2**-S Mattoon Rd., the following was seized:

- Live Plants: 675
- Clones: 510

26. During the execution of the search warrant on 05/19/2022 at **Grow Location 3**-SW Winnie Way, the following was seized:

- Live Plants: 517
- Clones: 576

CLAIM FOR SUBJECT CURRENCY

27. Investigators subsequently reviewed the claim for **Defendant Currency**, filed by Nian Hua Chen which claimed that the seized currency is from years of working as a food preparer at a Chinese restaurant. Surveillance during this investigation, however, showed that Nian Hua Chen and her family owned and/or operated multiple illegal grow sites for several months and her husband was found transporting marijuana to their residence on the day of the warrant.

28. In addition, Nian Hua Chen stated that some of the money is to care for her elderly mother, Meilan Su. Of note, **Defendant Currency** was located in the bedroom of her son Chao Hui Tan, not her own bedroom in the residence. Furthermore, Nian Hua Chen had a safe in her bedroom that

contained an additional \$96,380.00 that was also seized by Investigators.

CONCLUSION

29. Considering the aforementioned facts and observations, Investigators believe **Defendant Currency** was obtained through the illegal sale of marijuana. Moreover, I believe **Defendant Currency** is subject to forfeiture pursuant to 21 U.S.C. §881(a)(6), as moneys and assets furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to such an exchange, or moneys used or intended to be used to facilitate violations of 21 U.S.C. § 841.

I declare under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. §1746.

Executed this 21st day of October 2024

s/ Kenneth Bain
KENNETH BAIN
Special Agent
Drug Enforcement Administration